

BUSINESS LAW 310: CASE STUDY FACT SHEET CHECKLIST

Case Reference: Grand Energy E&C Sdn Bhd v. Sheikh Azhar bin Shaik Abdul Rahim & Ors
(Suit No: BA-22NCvC-49-01/2022)

[] CORE PREMISE: THE ILLUSION OF THE VEIL

- * Statutory Anchor: Section 20, Companies Act (CA) 2016 (Separate Legal Personality).
- * Common Law Precedent: Salomon v A Salomon & Co Ltd [1897] AC 22.
- * Essay Objective: Prove that the interlocking 16-company matrix acts as a singular fraudulent "Enterprise" to strip away individual separate veil protection.

[] LAYER 1: THE TECH & PRODUCTION ENTRY PIPES (Initial Siphoning Node)

- * Core Companies Involved:
 - [] SASAR Technology
 - [] PDT Resources
 - [] Personal Defence Technology Sdn. Bhd.
- * Primary Defendants Implicated:
 - [] Sheikh Azhar (1st Def) & Sheikh Annuar (3rd Def) — Primary targets of JID/Default enforcement.
 - [] Shaik Amar (2nd Def) — Systemic target under Section 2 CA 2016.
- * Legal Test to Apply: Shadow Directorship (Section 2 CA 2016). Prove that nominal board members acted as mere puppets accustomed to acting under the sibling core's instructions.

[] LAYER 2: THE PROPERTY & LAND SAFEHOUSE (Asset-Shielding Node)

- * Core Companies Involved:
 - [] Grand Infra Sdn. Bhd. [] Barakat Dijla Sdn. Bhd.
 - [] Teras Tanjung Sdn. Bhd. [] Jerejak Property Sdn. Bhd.
 - [] Grand Infra [] Jerejak Development Consultancy Sdn. Bhd.
- * Primary Defendants Implicated:
 - [] Mimi Mawar (9th Def) & Fadzwin — Spousal controller locking up liquid cash into long-term real estate.
 - [] Noorafzan (10th Def) & Che Shaari (6th Def) — Sibling/spousal layerers routing funds away.
- * Legal Test to Apply: Fraudulent Trading (Section 340 CA 2016) & Knowing Receipt. Prove that capital absorption occurred with clear intent to defraud creditors and shield cash from judgments.

[] LAYER 3: THE RETAIL & LIFESTYLE BLEED-OUT (Cash Integration Node)

- * Core Companies Involved:
 - [] Clas Shop Sdn. Bhd. [] MM Little & Large Enterprise
 - [] FMS Elegance Sdn. Bhd. [] Primatrends Clothing and Apparels LM
 - [] Seventy Capitol [] Lavender Home Spa [] Orchidea Sdn. Bhd.
 - [] Noor Mobile Spa and Confinement Care
- * Primary Defendants Implicated:
 - [] Nur Hidayah (5th Def) — Spousal operator trickling cash out via boutique retail proxies.
- * Legal Test to Apply: Unlimited Personal Liability under Section 340(1) CA 2016. Dismantle the "innocent spouse" defense by showing active execution of fake director loans and retail injections.

[] THE ADMINISTRATIVE MECHANISTRY ANCHOR (Next-Gen Execution Node)

- * Key Actor Implicated:
[] Humaira Azhar (Sheikh Azhar's Daughter) — Administrative assistant for the Jerejak cluster.
* Legal Test to Apply: Dishonest Assistance & Constructive Trusts (Royal Brunei Airlines v Tan). Argue that systematic execution of internal paperwork and layering transfers defeats basic "innocent employee" insulation.

CRITICAL ESSAY REMINDERS:

1. Do NOT write a family crime drama. Translate every family relation into corporate breach terms.

2. Section 340 CA 2016 imposes UNLIMITED PERSONAL LIABILITY on *any* knowing participant, not just directors.
3. Conclude explicitly on the doctrine of Syndicated Enterprise Liability to capture top-tier marks.

Outline 1: Establishing Shadow Directorship (Chapter 2 Focus)

- **Core Objective:** Prove Shaik Amar (2nd Def) and Che Shaari (6th Def) are legally liable as directors despite not being registered on the SSM profiles.
- **The Paragraph Structure:**
 - **The Assertion (Point):** Nominal corporate registration profiles cannot be weaponised to insulate shadow corporate controllers from fiduciary liability.
 - **Statutory Authority (Authority):** Under **Section 2 of the Companies Act 2016**, the definition of a director expands beyond formal appointments to capture any individual in accordance with whose directions or instructions the majority of directors are accustomed to act.
 - **Factual Application (Explanation):** In the *Grand Energy* matrix, while Shaik Amar and Che Shaari deliberately omitted their names from the SSM records of the Tech Layer (*SASAR Technology, PDT Resources*), they exercised absolute de facto control over the distribution of siphoned capital. The formally registered board members acted as mere administrative conduits executing their familial directives.
 - **Legal Conclusion (Outcome):** Consequently, the shadow governance axis cannot claim immunity; under **Section 213**, they remain fully burdened with the exact same fiduciary obligations and personal liabilities as officially appointed directors.

Outline 2: Piercing the Veil via Spousal Conduits (Chapter 3 Focus)

- **Core Objective:** Dismantle the "innocent spouse" defences for Nur Hidayah (5th Def) and Mimi Mawar (9th Def) using fraudulent trading thresholds.
- **The Paragraph Structure:**
 - **The Assertion (Point):** Matrimonial asset-holding rings do not enjoy separate legal insulation when deployed deliberately as defensive asset-shielding shields.
 - **Statutory Authority (Authority):** **Section 340(1) of the Companies Act 2016** dictates that if a company's business has been carried out with intent to defraud creditors, the court may declare any person who was *knowingly a party* to be personally responsible, without limitation, for all company liabilities.
 - **Factual Application (Explanation):** This statutory threshold directly catches Nur Hidayah and Mimi Mawar. By executing and signing internal financial filings for the Retail and Property Layers (*Clas Shop Sdn. Bhd., Grand Infra*), they actively absorbed siphoned funds under the guise of sham boutique injections and real estate acquisitions. This aligns with the judicial benchmark in *Chin Chee Keong v Transparent Horizon Sdn Bhd*, where moving capital to evade a judgment debt satisfies the intent to defraud.
 - **Legal Conclusion (Outcome):** Their direct administrative participation strips away any passive spouse defences, leaving both individuals exposed to unlimited personal liability for the joint judgment sums.

Outline 3: Triggering Liability for the Next-Gen Anchor (Chapter 4 Focus)

- **Core Objective:** Hold Humaira Azhar (the daughter) accountable via equitable remedies despite being a non-defendant employee.
- **The Paragraph Structure:**
 - **The Assertion (Point):** Basic employment contracts cannot be used as an absolute shield when an administrative employee systematically operates the machinery of an active commercial fraud.
 - **Judicial Authority (Authority):** Under the landmark equitable doctrine established in *Royal Brunei Airlines v Tan [1995]*, a non-director or third-party employee faces direct personal liability if they provide *Dishonest Assistance* to facilitate a breach of trust or fiduciary duty.
 - **Factual Application (Explanation):** While Humaira Azhar operated purely under an administrative staff title within the *Jerejak Property* cluster, her operational labor went far beyond standard clerical duties. By managing internal document tracking and systematically executing multi-layered corporate

bank transfers, she served as the operational anchor that maintained the facade of a legitimate business enterprise.

- **Legal Conclusion (Outcome):** Because her structural labor directly advanced the syndicate's asset-diversion goals, the court is fully empowered to look past her employment status and impose a **Constructive Trust** over any corporate salaries, assets, or financial benefits routed to her from the network.

Note for facilitators: follow the **PAEO** framework shown above: **Point** (The clear legal argument) → **Authority** (The Section or Case Law) → **Explanation** (The *Grand Energy* Facts) → **Outcome** (The Final Liability Impact). This is the exact pattern examiners look for to award top marks.

Facilitator Guide: Pre-Exam Workshop Briefing

Course Core: Business Law 310 (Corporate Governance & Enterprise Liability)

Case Study: *Grand Energy E&C Sdn Bhd v. Sheikh Azhar & 12 Ors*

Workshop Format: 3.5-Hour Interactive Masterclass

Objective: Guide undergraduate students to transition from simple factual narratives to high-level analysis of **Syndicated Enterprise Liability** using the 16-company matrix.

Section 1: Workshop Timeline & Session Breakdown

Time Slot	Module Title	Facilitator Activity Focus	Undergraduate Learning Goal
00:00 - 00:30 (30 Min)	The Illusion of <i>Salomon</i>	Presenting the contrast between basic separate legal personality vs. syndicated family asset-shielding networks.	Overcoming the knee-jerk reaction that "separate corporate shields are completely absolute."
00:30 - 01:15 (45 Min)	The 16-Company Fact Matrix	Interactive whiteboarding of the Tech, Property, and Lifestyle layers. Tracking the flow of siphoned corporate cash.	Identifying why and how every single sub-company operates as an integrated cog in the ring.
01:15 - 02:00 (45 Min)	The Liability Breakthrough	Debating statutory tests for Shadow Directorship (Sec 2) and Fraudulent Trading (Sec 340).	Linking specific defendants (Shaik Amar, Che Shaari) directly to their statutory breaches.
02:00 - 02:15 (15 Min)	<i>Comfort Break</i>	<i>Facilitator Sync / Reviewing student engagement.</i>	—
02:15 - 03:00 (45 Min)	The "Innocent Spouse" Trap	Group debate: Testing equity tracking, <i>Knowing Receipt</i> , and <i>Dishonest Assistance</i> .	Learning to thoroughly dismantle spousal and employee defences (Mimi Mawar, Humaira).
03:00 - 03:30 (30 Min)	The Exam Blueprint Summary	Reviewing the thesis, structuring paragraphs logically, and avoiding common analysis traps.	Leaving with a clear structure to draft an excellent, high-scoring essay.

Section 2: Facilitator Socratic Discussion Scripts

Use these specific questioning frameworks during small-group breakouts to keep discussions legally rigorous:

Scenario A: Breaking through the "Separate Entity" Illusion

- **The Undergraduate Trap:** Students will continuously repeat: *"But Clas Shop Sdn Bhd and Teras Tanjung Sdn Bhd are completely separate companies under Section 20, so the plaintiff can't touch them!"*

- **Facilitator Prompt Script:**

*"Look closer at Chapter 2.2 and 3.2. If a company receives millions of ringgit in siphoned corporate funds under the guise of fake retail capital injections, does it matter if the registry documents look legal? If Shaik Amar and Che Shaari are pulling the strings from behind the curtain, is the board really independent? What is the explicit legal test in **Chin Chee Keong** regarding a company carrying on business with the intent to defraud creditors?"*

Scenario B: Stripping Away the "Innocent Spouse" defence

- **The Undergraduate Trap:** Students will feel empathetic towards **Nur Hidayah** and **Mimi Mawar**, arguing: *"They were just spouses running their boutique and property businesses; they shouldn't face personal liability for the brothers' corporate actions."*

- **Facilitator Prompt Script:**

*"Look at Section 340 of the Companies Act 2016. The statutory phrase says: 'any person who was knowingly a party to the carrying on of the business...'. If Mimi Mawar signs financial filings converting siphoned liquid cash into real estate investments to place them out of the plaintiff's reach, is she a passive wife or a functional node? Once you prove **Knowing Receipt**, personal liability becomes absolute. How should a top-tier essay articulate this link without turning it into an emotional narrative?"*

Scenario C: Navigating the Next-Gen Administrative Anchor

- **The Undergraduate Trap:** Students will miss **Humaira Azhar (the daughter)** entirely because she is not listed as a primary corporate defendant in the lower-court summaries.

- **Facilitator Prompt Script:**

*"Look at Chapter 4. If an administrative assistant systematically handles internal paperwork, executes corporate layering transfers, and maintains the administrative facade of a sham operation, can she hide behind her employment contract? Introduce them to the equitable test in **Royal Brunei Airlines v Tan**. Did her administrative labour assist in the fraud? If yes, how do we deploy a **Constructive Trust** to claw back siphoned assets?"*

Section 3: The Common Academic Red Flags (What to Correct)

Instruct your Master's students to watch out for these three major pitfalls when reviewing undergraduate draft points during the workshop:

1. **Storytelling vs. Legal Analysis:** Undergraduates love treating this case like a true-crime family drama. Instruct facilitators to cut them off immediately if they spend more than two sentences describing family trees. Remind them: **"Every family relationship must be immediately translated into its corresponding corporate governance vulnerability (e.g., Sibling Bond = Shadow Director Control)."**
2. **Statutory Blending:** Undergraduates frequently mix up the application of **Section 213** (Fiduciary Duties of formal directors) with **Section 340** (Fraudulent Trading for any knowing participant). Facilitators must emphasize that Section 340 is the ultimate weapon because it cracks open unlimited personal liability for *anyone* inside the network—including non-director spouses.

3. **Vague Conclusion Statements:** Undergraduates often conclude with a weak summary like *"Therefore, corporate fraud is very bad."* Facilitators must push them toward the **Thesis Statement:** they must argue for **Enterprise Liability**—the idea that when a corporate group acts as a singular fraudulent entity, the law must treat the entire 16-company footprint as one single enterprise.

BUSINESS LAW 310: CASE STUDY MASTERY QUIZ

Case Reference: *Grand Energy E&C Sdn Bhd v. Sheikh Azhar bin Shaik Abdul Rahim & Ors*

Question 1 (Topic: Separate Legal Personality)

Under Section 20 of the Malaysian Companies Act 2016, what is the primary structural effect of a company's incorporation upon its members and directors?

- A. The members become jointly and severally liable for all ordinary trade debts incurred by the company.
- B. It creates a body corporate distinct from its members, possessing perpetual succession and the capacity to sue and be sued in its own name.
- C. The directors automatically become trustees of the company's assets holding absolute personal title.
- D. The company's legal existence is tied directly to the natural lifespan of its majority shareholder.

Answer: B

Explanation: Section 20 explicitly codifies that upon incorporation, a company becomes a separate legal entity independent of its human creators, mirroring the classic common law principle from *Salomon v A Salomon & Co Ltd*.

Question 2 (Topic: Shadow Directorship Parameters)

How is a "shadow director" defined under Section 2 of the Malaysian Companies Act 2016?

- A. Any former director who resigned within the preceding two years but retains a minority shareholding.
- B. A person who is formally appointed as an alternate director during board meetings.
- C. A person in accordance with whose directions or instructions the directors of a corporation are accustomed to act.
- D. An external auditor who provides statutory compliance advice to the audit committee.

Answer: C

Explanation: Section 2 defines a shadow director as an unregistered controller whose instructions the de jure board is accustomed to follow, bringing them under the same statutory duties and liabilities as regular directors.

Question 3 (Topic: Fraudulent Trading Liability)

Under Section 340 of the Malaysian Companies Act 2016, what primary threshold must be established to prove civil or criminal fraudulent trading?

- A. Mere commercial negligence or failure to exercise reasonable business judgment.
- B. A temporary cash-flow insolvency that was disclosed to major creditors.
- C. Failure to file annual returns for two consecutive financial years.
- D. Any business of the company being carried on with intent to defraud creditors of the company or any other person, or for any fraudulent purpose.

Answer: D

Explanation: Section 340 requires strict proof of a clear intent to defraud or operational dishonesty, going far beyond standard commercial negligence or poor business decisions.

Question 4 (Topic: Judgment in Default of Appearance)

Under Order 13 of the Malaysian Rules of Court 2012, when is a plaintiff entitled to enter a Judgment in Default of Appearance against a defendant served with a writ of summons?

- A. When the defendant fails to enter an appearance within the prescribed time limit (generally 14 days after service) following valid service of the writ.
- B. Immediately upon filing the statement of claim, regardless of whether the writ has been served.
- C. Only after a full trial on the merits where the defendant fails to attend the final oral submission.
- D. When the defendant enters an appearance but fails to file a defense within 7 days.

Answer: A

Explanation: Order 13 allows a plaintiff to extract a rapid default judgment if the defendant fails to file a memorandum of appearance within the statutory timeframe after being properly served.

Question 5 (Topic: Mareva Injunction Parameters)

What is the primary objective of a Mareva Injunction (Freezing Injunction) in Malaysian civil procedure?

- A. To permanently transfer legal ownership of the defendant's real estate to the plaintiff prior to judgment.
- B. To prevent a defendant from removing assets from the jurisdiction or dissipating them with the intent or effect of rendering any eventual judgment nugatory.
- C. To compel the defendant to confess liability under criminal statutory provisions.
- D. To freeze the plaintiff's funds as a security for the defendant's potential costs.

Answer: B

Explanation: A Mareva injunction acts as a preventive interim restraint to stop a defendant from becoming "judgment-proof" by hiding or liquidating their assets before the trial concludes.

Question 6 (Topic: Knowing Receipt)

In equitable remedies and constructive trusts, what constitutes the core liability requirement for "Knowing Receipt"?

- A. The recipient must have actively conspired with the primary wrongdoer to commit the initial fraud.
- B. The recipient must be a bona fide purchaser for value without notice of any equitable interest.
- C. The recipient received trust property for their own benefit and had knowledge of the breach of trust or fiduciary duty that made it unconscionable to retain it.
- D. The recipient must have held the assets strictly as an innocent banking conduit without handling funds for personal use.

Answer: C

Explanation: Knowing receipt triggers personal equitable liability when a third party beneficially receives trust assets with a level of knowledge that makes keeping the property dishonest or unconscionable.

Question 7 (Topic: Dishonest Assistance)

According to established principles of accessory liability (e.g., *Royal Brunei Airlines v Tan*), what standard defines "dishonesty" for the tort of Dishonest Assistance?

- A. A purely subjective standard where the assistant must personally think their conduct is standard industry practice regardless of societal norms.
- B. An objective standard measured by what an ordinary, honest person would expect, taking into account the defendant's real state of knowledge and experience.
- C. Criminal intent to commit grand larceny under the Penal Code.
- D. Strict liability triggered by the mere act of helping a director sign a bank transfer.

Answer: B

Explanation: Dishonesty is assessed objectively against the baseline of ordinary, decent human standards while factoring in the specific, actual facts known to the defendant at the time.

Question 8 (Topic: Piercing the Corporate Veil)

In the context of Malaysian company law, when will a court most readily pierce the corporate veil to hold controllers personally liable?

- A. Whenever the company fails to generate a net profit for three consecutive quarters.
- B. Whenever the company enters into contracts with foreign entities without prior approval from the Registrar.
- C. When the corporate form is used as a facade or vehicle to evade existing legal obligations, perpetrate a fraud, or facilitate wrongdoing.
- D. Whenever a single shareholder owns 100% of the ordinary voting shares.

Answer: C

Explanation: While the separate veil is highly protected, courts will pierce or lift it if there is explicit evidence that the corporate structure was used as a sham or mask to carry out fraud or escape legal constraints.

Question 9 (Topic: Shadow Directorship Evidence)

What key evidentiary factor distinguishes a true shadow director from a dominant or controlling majority shareholder?

- A. The level of dividend payouts received by the shareholder during the financial year.

- **B.** Whether the de jure directors surrender their independent judgment and habitually submit to the commands or directions of that person in managing the company.
- **C.** The physical location where the corporate books and records are maintained.
- **D.** The total number of employees registered under the corporate payroll.

Answer: B

Explanation: A shareholder controls general meetings via voting power, whereas a shadow director acts behind the scenes to control the board's daily commercial actions, turning nominal directors into puppet conduits.

Question 10 (Topic: Fraudulent Trading Scope)

Under Section 340 of the Companies Act 2016, who possesses the locus standi to apply for a declaration that a person is personally responsible for debts due to fraudulent trading?

- **A.** Only the Minister of Domestic Trade and Cost of Living directly.
- **B.** Any minor retail customer holding less than RM100 in unfulfilled orders.
- **C.** The liquidator, or any creditor or contributory of the company, upon the direction of the court or liquidator mechanisms.
- **D.** The external corporate secretary without board approval.

Answer: C

Explanation: Section 340 grants explicit standing to liquidators, official receivers, and impacted corporate creditors to seek declarations of personal liability against anyone knowingly involved in the fraudulent business loop.

Question 11 (Topic: Judgment in Default Mechanics)

If a Judgment in Default of Appearance is deemed "irregular" because service of the writ was fundamentally flawed, what is the procedural status of that judgment?

- **A.** It remains fully binding until the federal cabinet reviews it.
- **B.** It can only be set aside if the defendant proves a strong defense on the merits.
- **C.** It is considered a nullity or defective action which the court must set aside *ex debito justitiae* (as of right) without requiring proof of merits.
- **D.** It converts automatically into a summary judgment under Order 14.

Answer: C

Explanation: An irregular judgment breaks a fundamental rule of court or service. It is considered a baseline defect, meaning the court must discard it *ex debito justitiae* (as a matter of right) without asking the defendant to argue their case merits.

Question 12 (Topic: Mareva Injunction Disclosures)

When applying for an *ex parte* Mareva Injunction in the Malaysian High Court, what crucial duty does the applicant owe the court regarding material facts?

- **A.** The duty of full and frank disclosure (*uberrima fides*), requiring the applicant to disclose all material facts known, including points favorable to the absent defendant.
- **B.** The duty to only present facts that depict the defendant in an unmitigated negative light.
- **C.** No duty of disclosure applies until the inter partes hearing takes place 14 days later.
- **D.** The duty to pay a punitive security deposit directly to the judge's chambers.

Answer: A

Explanation: Because the applicant is moving behind closed doors without the opponent present, the doctrine of *uberrima fides* requires complete transparency, including disclosing known counter-arguments or defenses.

Question 13 (Topic: Knowing Receipt vs Dishonest Assistance)

Which of the following best contrasts "Knowing Receipt" and "Dishonest Assistance"?

- **A.** Knowing receipt requires proof of a criminal conviction, whereas dishonest assistance is purely administrative.
- **B.** Knowing receipt requires the defendant to have received trust property for their own benefit, whereas dishonest assistance applies to a third party who facilitates a breach of trust without necessarily receiving the property.
- **C.** Dishonest assistance requires property ownership, while knowing receipt is a personal contract law remedy.
- **D.** They are identical names for the same exact cause of action under Order 18.

Answer: B

Explanation: Knowing receipt focuses on the physical, beneficial retention of misapplied assets, while dishonest

assistance acts as an accessory hook targeting those who helped carry out the breach, even if they didn't pocket a single cent.

Question 14 (Topic: Section 20 Corporate Personality Limits)

Can an individual shareholder of a company invoke the company's separate legal personality to personally sue for a wrong done exclusively to the company (e.g., loss of a corporate contract)?

- A. Yes, under the rule in *Foss v Harbottle* as an automatic individual right.
- B. No, because the cause of action belongs to the company as a distinct legal entity, barring the shareholder from suing personally for reflex injury (reflective loss rule).
- C. Yes, provided the shareholder owns more than 50% voting rights.
- D. Only if the company is currently dormant.

Answer: B

Explanation: Under the rule in *Foss v Harbottle* and the reflective loss principle, the company is the proper plaintiff for injuries done to itself. Shareholders cannot claim personal standing for an indirect drop in share value.

Question 15 (Topic: Shadow Director Statutory Duties)

To what extent are statutory director duties (such as acting in good faith under Section 213 of the Companies Act 2016) applicable to a shadow director?

- A. They are entirely exempt because they never signed the Form 48A / declaration of appointment.
- B. They owe the same duties and are subject to the same civil and criminal liabilities as regular de jure directors in respect of the functions they influence or control.
- C. They only owe financial reporting obligations to the Inland Revenue Board (LHDN).
- D. They only bear tortious liability for negligence, with no fiduciary duties.

Answer: B

Explanation: The law prevents people from running fraudulent operations from the shadows; once shadow directorship is proven, they carry the exact same fiduciary weights and statutory penalties as an officially appointed board director.

Question 16 (Topic: Fraudulent Trading Burden of Proof)

What standard of proof applies in civil proceedings when establishing fraudulent trading under Section 340 of the Companies Act 2016 in Malaysia?

- A. A balance of probabilities, equivalent to ordinary civil breach of contract claims.
- B. Proof on a high standard of proof/balance of probabilities commensurate with the gravity of the allegation of fraud (often requiring clear and convincing evidence).
- C. Beyond all possible human doubt.
- D. Strict liability where intent is presumed automatically upon net asset deficiency.

Answer: B

Explanation: Because an allegation of fraud carries severe professional and personal consequences, civil courts require a significantly higher and more cogent degree of probability compared to ordinary debt collection or breach claims.

Question 17 (Topic: Setting Aside Regular JID)

If a Judgment in Default of Appearance is *regular* (properly obtained in line with all rules), what must a defendant establish under Order 13 Rule 8 to have the court set it aside?

- A. Simply apologize to the plaintiff via a formal letter.
- B. Prove that the court registry printer malfunctioned on the day of entry.
- C. Disclose a defense on the merits (a prima facie defense that shows a triable issue) and offer a satisfactory explanation for the default/delay.
- D. Pay double the claimed amount into an escrow account.

Answer: C

Explanation: The court will not wipe out a procedurally clean judgment unless the defendant can prove two things: they have a legitimate, triable argument to present at a full trial, and they have a reasonable excuse for missing their deadlines.

Question 18 (Topic: Mareva Injunction Third-Party Effect)

How does a Mareva Injunction affect third parties, such as commercial banks holding the defendant's accounts, once they receive formal notice of the order?

ACADEMIC NOTICE: This document is a simulated undergraduate classroom assignment uploaded strictly for peer-to-peer educational study. All case structures, financial tracking, and conclusions are hypothetical exercises designed to meet university grading rubrics. This work does not constitute a formal legal brief, verified investigation, or legal advice. It does not assert factual findings, criminal guilt, or civil liability against any real-world parties named in Shah Alam High Court Suit BA-22NCvC-49-01/2022. The student/ author acts without malice or commercial intent. .

- A. They are permitted to transfer the funds to offshore accounts for safekeeping.
- B. They are required to immediately liquidate all bank shares and pay dividends to the bank directors.
- C. They have no legal obligations and can ignore the notice since they are not the named defendant.
- D. They are legally bound to freeze the relevant funds and refrain from executing transactions that breach the injunction, risking contempt of court if they knowingly assist in dissipation.

Answer: D

Explanation: A Mareva order binds anyone who has notice of it. If a bank assists in moving funds after being served with the freeze notice, they can be held directly liable for contempt of court.

Question 19 (Topic: Knowing Receipt Knowledge Standard)

Which mental state or degree of knowledge, classified under the *Baden* scale of knowledge, is minimally required to trigger liability for Knowing Receipt in Malaysia?

- A. Baden Category (v) - wholly blameless and completely unaware of any facts.
- B. Knowledge of circumstances which would put an honest and reasonable person on inquiry (Constructive notice/knowledge under categories i to iv of the Baden scale).
- C. Absolute certainty confirmed by a written declaration from the High Court registrar.
- D. Unconscious instinct with no cognitive element whatsoever.

Answer: B

Explanation: Liability is triggered not just by absolute certainty, but by turning a blind eye to obvious red flags that would prompt any honest, reasonable person to make inquiries.

Question 20 (Topic: Dishonest Assistance Elements)

Which of the following elements is *not* a requirement to establish liability for Dishonest Assistance?

- A. That the accessory must have received and retained the trust property for their personal enrichment.
- B. A breach of trust or fiduciary duty by the primary trustee or director.
- C. Assistance rendered by the defendant toward that breach of trust.
- D. Dishonesty on the part of the assistant according to objective standards.

Answer: A

Explanation: An accessory can be held liable as a dishonest assistant even if they never received, touched, or pocketed a single dollar of the stolen trust property.

Question 21 (Topic: Separate Legal Personality Exceptions)

Does the Malaysian Companies Act 2016 permit the corporate veil to be lifted to prosecute natural persons for criminal acts committed via the company?

- A. No, corporate insulation protects all humans from criminal charges regardless of wrongdoing.
- B. Yes, statutes and common law principles ensure that individuals who commit crimes or fraudulent acts using the corporate structure remain personally criminally liable.
- C. Only if the company's paid-up capital is below RM2.
- D. Only via a resolution passed at an annual general meeting.

Answer: B

Explanation: The corporate shield was created for legitimate business risk management. It never acts as a shield against personal criminal prosecution for individuals who commit crimes under a corporate banner.

Question 22 (Topic: Shadow Directorship Professional Exemption)

Why do professional advisers (such as solicitors, accountants, or company secretaries) acting in their professional capacity escape being labeled as shadow directors?

- A. Because they hold professional indemnity insurance policies.
- B. Because giving professional advice that the board considers or follows does not mean the board is "accustomed to act" on their instructions as corporate controllers.
- C. Because they are registered with the Malaysian Institute of Accountants.
- D. Because they receive hourly fees rather than monthly salaries.

Answer: B

Explanation: Explicit statutory provisos protect external advisors; as long as they stay within their professional boundaries and do not usurp the board's actual management power, they cannot be labeled shadow directors.

Question 23 (Topic: Fraudulent Trading Consequences)

What is the nature of the personal responsibility imposed on a person found liable under Section 340 of the Companies Act 2016 for fraudulent trading?

- A. It is limited strictly to the nominal value of their issued shares in the company.
- B. Personal, unlimited liability for all or any of the debts or other liabilities of the company as the court directs.
- C. It requires them to forfeit their personal driver's license for five years.
- D. It converts them into passive debenture holders.

Answer: B

Explanation: Section 340 functions as an ultimate weapon because it completely strips away limited liability, rendering the wrongdoer personally and limitlessly responsible for the company's debts.

Question 24 (Topic: Mareva Injunction Undertaking)

What mandatory undertaking must a plaintiff provide to the court when obtaining an interim Mareva Injunction to protect against potential injustice to the defendant?

- A. An undertaking as to damages, promising to compensate the defendant for any loss suffered if the injunction turns out to have been wrongly granted.
- B. An undertaking to drop all alternative criminal complaints filed with the police.
- C. An undertaking to pay the defendant's legal team's monthly office rental.
- D. An undertaking to transfer 50% of the plaintiff's corporate shares to the High Court registry.

Answer: A

Explanation: Because a freezing order can devastate a defendant's operational capacity before trial, the court will not issue it unless the plaintiff formally undertakes to cover those damages if they lose the lawsuit.

Question 25 (Topic: Setting Aside an Irregular JID)

When a defendant successfully proves that a JID was "irregular" (e.g., entered before the statutory 14 days lapsed), what choice does the presiding judge have?

- A. The judge can choose to fine the plaintiff but leave the judgment active.
- B. The judge must set it aside *ex debito justitiae* (as a matter of right), as they have no judicial discretion to maintain an irregular judgment.
- C. The judge must transfer the file to the industrial court for meditation.
- D. The judge can order the defendant to pay the plaintiff's costs before clearing the file.

Answer: B

Explanation: An irregular JID breaks a fundamental pillar of civil procedure. The judge has zero discretionary power to keep it active and must set it aside *ex debito justitiae*.